

U.S. Application Serial No. 09/942,010

REMARKS

The present amendment is in response to the Official Action dated October 10, 2004, wherein the Examiner rejected pending claims 1-53. More specifically, the Examiner rejected claims 1-13, 15-32, 34-36 and 38-53 as being anticipated by Sweet et al., US Patent Publication No. 2002/0031230, and rejected claims 14, 33 and 37 as being unpatentable over Sweet et al., '230, in view of Tokue et al., US Patent Publication No. 2002/0002413. However, the teachings of Sweet et al., '230, continue to be misapplied to the above noted claims in attempting to suggest that the same are anticipated, either as originally filed or as presently amended. Furthermore, the Examiner has continued to rely upon a reference, namely Tokue et al., '413, which has not been established as qualifying as prior art relative to the present application. More specifically, Tokue et al., '413, would appear to have an effective prior art date, which does not predate the priority date of the present application. There are similar potential concerns relative to Sweet et al., '230, which is explained further below. The present application has a priority date of April 18, 2001, corresponding to the filing of a related provisional application USSN 60/284,739. This defect was highlighted in applicants' previous response. However a review of the Examiner's most recent Office Action continues to show that the Examiner has not yet addressed the issue. The present response includes amendments to claims 29 and 43, which have been introduced in an attempt to make the same more clear and/or to correct further informalities of a clerical nature.

In responding to applicants' previous arguments, the Examiner has mischaracterized the Applicants position and correspondingly failed to address the specific deficiencies noted by the applicants. Instead the Examiner focuses on "encrypted content" in isolation without reference to a claimed context, which is relevant to the claims of the present application, where the encrypted content is encrypted and decrypted using a domain based key. The Examiner further focuses on the possibility that a member may have multiple devices, but then fails to show how the multiple devices form a domain, which has a corresponding shared cryptographic key, based upon the domain of devices. As noted below and supported by the portion of the reference specifically cited by the Examiner, the common content is accessible through appropriate credentials associated with a member account, and not a particular domain of devices. It is the credentials associated with the user that allows the user to access the content using client application

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software for his player devices. The requirement of credential keys in the cited reference seems to preclude a shared cryptographic key, which is associated with the domain of one or more communication devices.

In other words, while the present application generally provides for a cryptographic key, which is shared by the one or more communication devices of a domain, which enables the digital content to be received and decrypted by the communication devices of the domain, Sweet et al., '230, does not similarly provide for such a cryptographic key, which is shared by the entities which form a domain for purposes of accessing domain authorized content.

Alternatively, Sweet et al., '230, includes a working key, which is generally unique for each data object including information of interest (see pg. 1, par. [0011]). Sweet et al., '230, in addition to a working key, further includes credential keys, which may limit access to portions of a data object (see pg. 1, par. [0014]), dependent upon the set of credentials in a particular user's member profile, that is generally unique for each user (see pg. 3, par. [0035]).

To the extent that Sweet et al., '230, discusses domain level access, the access is generally associated with access to an encrypted header file, which is associated with an encrypted data object, but is not the same as the encrypted data object (see pg. 9, par. [0132]). The cited reference then provides that read and write access to the encrypted data object are then preferably accomplished through the use of pseudo-random value encryption keys, which are based upon credential keys (see pg. 9, par. [0133]), which as noted above are further based upon the set of credentials contained in each member profile, which is unique to each user.

At best, the encrypted data object, identified in the cited reference, and not the associated header file, is more closely akin to content. Consequently a domain level of access to a header file is not the same as providing a shared domain-level cryptographic key, which enables the receipt and decryption of digital content, based upon membership in the domain, as provided by the claims of the present application. "Content" is defined by the American Heritage Dictionary of the English Language, Fourth Edition, published by the Houghton Mifflin Company (2000), as "the substantive or meaningful part". Alternatively, "header" is defined by the Free On-line Dictionary of Computing, Denis Howe, (1993-2004), as "the portion of a packet, preceding the actual data" and "the part of an electronic mail message or news article that precedes the body of

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a message". Hence, one skilled in the art would not recognize header information as being equivalent to content.

Even at a more basic level, the use of the term domain in the cited reference relates to a group of members identified through individual member accounts, which is silent as to "having one or more communication devices", as provided by the claims of the present application. While the present application describes members as having individual member accounts and corresponding member tokens, no such designation is described relative to one or more various communication devices. In fact, the present application envisions that a particular user may have more than one communication device (see pg. 8, lines 2-3), which in turn can be enrolled in the same domain. The cited reference is silent as to any relationship of one or more "communication devices" relative to a domain. As noted above, it is the association with a member account which establishes access through one or more assigned credentials, which is different than being based upon association with a domain including one or more communication devices.

The above noted-inconsistencies between the cited reference and the present application make generally inapplicable the teaching of the reference in attempting to make known or obvious any of the claims of the present application. Consequently, Sweet et al., '230, fails to support an alleged anticipation of each of the independent claims, as well as each of the corresponding dependent claims, which depend therefrom. The above noted differences do not take into account the possibility that the relied upon teachings of Sweet et al., '230, similar to Tokue, '413, may not be prior art relative to the present application, in so far as the priority date of Sweet et al., '230, is based upon two provisional applications, which are minimally required for purposes of predating the priority date of the present application. It is noted that the Examiner's rejections have not yet made reference to corresponding teachings in the priority documents, and therefore the Examiner has failed to establish priority of any of the relied upon portions of the cited reference.

As presently amended, the claims are allowable over the prior art of record for the reasons noted above. Allowance of the application is respectfully requested.

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In the event, that there are any remaining unresolved issues precluding the issuance of the present application after consideration of the present response, before issuing a further rejection, the Examiner is respectively requested to contact the applicants' agent at the below listed number to discuss the same.

Respectfully submitted,

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